

REMARKS

Applicant appreciates the Examiner's thorough examination of the present application. Applicant has amended claims 4, 14, 25, 27 and 29 herein. Claims 1-3, 11-13, 21-24, 26, 32, 41, and 44 are canceled.

Applicant respectfully asserts that the claims are allowable herein over the Examiner's rejection under 35 U.S.C. §102. Applicant respectfully requests favorable reconsideration of the claims based on the amendments and remarks set forth herein.

Rejections Under 35 U.S.C. §102 (b)

Claims 4-10, 14-20, 22-31, 33-40, 42, 43, and 45-49 have been rejected under 35 USC §102 as being anticipated by the newly cited reference, EP 0028772. Claims 4 and 14 have been amended to overcome the rejection under 35 USC §102. Claims 5-8 and 15-18 depend from claims 4 and 14, respectively and are considered to be allowable as such. Applicant respectfully asserts that the claims, as amended herein, overcome and are allowable over the examiner's rejection.

With regard to the rejection under 35 U.S.C. §102, it is well settled, anticipation requires "identity of invention." *Glaverbel Societe Anonyme v. Northlake Manufacture Mktg. & Supply*, 33 USPQ2d 1496, 1498 (Fed. Cir. 1995). Each and every element recited in a claim must be found in a particular prior art reference and arranged as in the claims. *In re Marshall*, 198 USPQ 344, 346 (CCPA 1978); *Lindemann Maschinenfabrik GMBH*, see *American Hoist and Derrick Company*, 221 USPQ481, 485 (Fed. Cir. 1984). Furthermore, in a rejection under 35 U.S.C. §102 (b) there must be no difference between what is claimed and what is disclosed in the applied reference. *In re Kalm*, 154 USPQ10, 12 (CCPA 1967); *Scripps v. Genentech Inc.*, 18 USPQ2d 1001, 1010 (Fed. Cir. 1991).

The device in EP0028772 is not pivotably retained on the housing. Rather, the "hooks" in EP 0028772 are suspended from the housing and are connected to a threaded member which is used to draw or tighten the cup, by engaging the projections thereon, against the housing. Clearly, the reference does not include each and every element as set forth in the claims.

With the foregoing in mind, the amended claims overcome and are allowable over the rejection under 35 USC §102 since EP 0028772 fails to provide each and every element of the amended claims as set forth herein. There is a significant difference between what is claimed and what is disclosed in EP 0028772. With the foregoing in mind, Applicant respectfully requests that the Examiner withdraw the rejection under 35 U.S.C. §102 and allow the amended claims.


Applicant respectfully asserts that claims 4 and 14, and claims 5-8 and 42-45 depending from these independent claims are allowable as amended herein. The remainder of the pending claims should be allowable based on the Examiner's recommendations for amendment of the claims by placing the claims in condition for allowance or by way of making minor formal amendments.

Applicant respectfully requests that the Examiner contact the attorney of record if there is any misunderstanding with regard to the allowability of the balance of the claims. Also, if there is any issue remaining to be resolved, the Examiner is invited to telephone the undersigned so that resolution can be promptly affected.

It is requested that, if necessary to effect a timely response, this paper be considered as a Petition for an Extension of Time sufficient to effect a timely response with the fee for such extensions and shortages in other fees, being charged, or any overpayment in fees being credited, to the Account of Barnes & Thornburg, Deposit Account No. 12-0913 (27726-100554).

Respectfully submitted,

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